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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

EXAMINER	
GANTT, ALAN T	

ART UNIT	PAPER NUMBER
2684	

DATE MAILED: 11/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/767,839	MOONEY ET AL.	
	Examiner	Art Unit	
	Alan T. Gantt	2684	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 March 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-50* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *2-4,7-11,13-15,19-23,37,38,49 and 50* is/are allowed.

6)☐ Claim(s) *1,5,12,16,17,24-36 and 39-48* is/are rejected.

7)☒ Claim(s) *6 and 18* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 3/28/05 have been fully considered but they are not persuasive. Applicant primarily argues that: (a) Jakobsson does not disclose the selection of one of a plurality of input audio signals according to at least one stored selection which specifies a designated triggering event. Applicant further states that Jakobsson discloses "messages" which appear to include audio signals that may be ignored by one or more devices when a network descriptor is different from a from a network descriptor related to a piconet that contains the devices. Also, (b) there is no suggestion in Jakobsson that the message can be used to select one of a plurality of input audio signals that includes a particular date and time a chronological event or receipt of a message via an electronic messaging service.

With regards to (a), Jakobsson does speak of the messages that applicant refers. However, there is at least a CD player, a wireless headset, and a master cellular phone. Thus, at the very least one would have a cell phone output signal or a CD output signal. That constitutes a plurality of inputs. Paragraph 18 states that the master cell phone is the controller and can be programmed to switch off the CD when an incoming call arrives and then pass the call to the wireless headset for reception by the user. If a program is used you have a stored instruction. The system would then be set up such that if one is listening to a CD player and desires to receive any cellular telephone calls that come in, the call would override the CD player output and pass the call to the user through the headset. Obviously, the reception of the telephone call is the trigger. Since programming is involved, one step has to be "If a telephone call is received, override the CD output and pass the cellular call". Thus, you have multiple audio signal inputs

and the incoming call triggers the master cell phone to switch the CD player off and select the cell phone as the main input. Thus, the steps of the claims are still met by Jakobsson.

Regarding (b), Official Notice was taken regarding taking a message and using its contents as a trigger because it is well known that electronic messages may utilize a cellular telephone and Jakobsson already allows for incoming call by a cellular telephone to override the CD output. Regarding a chronological event (also includes a date and time) being used as a trigger, such is a very common occurrence and thus the use of a time to awaken a device is not new.

Although the above arguments respond to applicant's concerns regarding the Jakobsson reference, a new reference (Anvekar et al.) is presented to meet applicant's claim language. This reference is chosen because its intended purpose is closer to that of the applicant's invention. Many of the responses to the arguments used above to defend Jakobsson apply to the Anvekar, also. A Non-Final Office Action follows that utilizes Anvekar as the primary reference.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 12, 24-26, 27-30, and 36, 39-48 are rejected under 35 U.S.C. 102(e) as being anticipated by Anvekar et al. (US 2002/0068610)

Regarding claim 1, Anvekar discloses a method and apparatus for selecting source device and content delivery via wireless connections and thus provides a method of switching between wireless audio sources (paragraph 0014). Anvekar can be said to provide a method of switching between wireless audio sources. Anvekar meets the following limitations:

> receiving a plurality of input audio signals from respective wireless audio sources at a wireless receiver, (paragraphs 0014 - allows for utilization of compact disc players, cassette players, MP3 players, personal computer, pad's, etc.)
>
> selecting one of said plurality of input audio signals for output from an audio signal-reproducing device coupled to said wireless receiver, said selecting being performed according to at least one stored selection instruction which includes a designated triggering event for triggering said selection. (paragraph 0019 – the instruction may for a particular device to be the default startup device where upon the startup is the triggering event or a triggering invent may be an incoming phone call that causes the audio output of the headset to switch from the current source to the cell phone)

Regarding claim 12, Anvekar discloses a method and apparatus for selecting source device and content delivery via wireless connections and thus provides a method of switching

between wireless audio sources (paragraph 0014 – although not design to work exclusively with the Bluetooth standard, Anvekar does allow for Bluetooth). Anvekar meets the following limitations:

> receiving a plurality of Bluetooth compliant transmissions, each including a respective input audio signal, from respective electronic devices; (paragraph 0014 – allows for utilization of compact disc players, cassette players, MP3 players, personal computer, pda's, etc. Also allows for connection of the various devices by using digital wireless standards such as Bluetooth)

> selecting at least one of said received audio signals for output to a headset in accordance with at least one stored selection instruction, said selection instruction including a designated triggering event for triggering said selection. (paragraph 0019 – the instruction may for a particular device to be the default startup device where upon the startup is the triggering event or a triggering invent may be an incoming phone call that causes the audio output of the headset to switch from the current source to the cell phone)

Regarding claim 24, Anvekar discloses a method and apparatus for selecting source device and content delivery via wireless connections and thus provides a method of switching between wireless audio sources (paragraph 0014). Anvekar meets the following limitations:

a wireless receiver which receives a plurality of audio signals transmitted from respective wireless audio sources; (paragraphs 0014 - allows for utilization of compact disc players, cassette players, MP3 players, personal computer, pda's, etc.)

a storage device that stores at least one selection instruction which includes a designated triggering event for triggering said selection; (paragraphs 0019, 0022 and 0026 – the microprocessor 240 may be programmed and therefore inherently contains storage or memory. Also the voice command or the selection of the default device chosen at startup is a designated triggering event.)

a programmable switch coupled to said storage device and said wireless receiver that selects one of said plurality of audio signals for output according to said at least one stored selection instruction and said designated triggering event; (paragraphs 0019 and 0022 – the microprocessor 240 functions as a switching module and is known to inherently include at least some random access memory. In this device, the microprocessor 240 may be programmed to select a specific device as a power up default device, further, the storage is inherently coupled to the processor and this can happen within the same container or package)

an audio signal-reproducing device coupled to said programmable switch that aurally reproduces said one of said plurality of audio signals selected for

output. (paragraphs 0013, 0015, 0019 and Figure 2 – the speaker is a part of the headset and is coupled to the programmable switch through the audio electronics)

Regarding claim 27, Anvekar discloses a method and apparatus for selecting source device and content delivery via wireless connections and thus provides a method of switching between wireless audio sources (paragraph 0014). Anvekar can be said to provide a programmable audio device. Anvekar meets the following limitations:

a wireless receiver which receives a plurality of audio signals transmitted from respective wireless audio sources; (paragraphs 0014 - allows for utilization of compact disc players, cassette players, MP3 players, personal computer, pda's, etc.)

a storage device that stores at least one selection instruction which includes a designated triggering event for triggering said selection; (paragraphs 0019, 0022 and 0026 – the microprocessor 240 may be programmed and therefore inherently contains storage or memory. Also the voice command or the selection of the default device chosen at startup is a designated triggering event.)

a programmable switch coupled to said storage device and said wireless receiver that selects one of said plurality of audio signals for output according to said at least one stored selection instruction and said designated triggering event; (paragraphs 0019 and 0022 – the microprocessor 240 functions as a switching module and is known to inherently include at least some random access

memory. In this device, the microprocessor 240 may be programmed to select a specific device as a power up default device, further, the storage is inherently coupled to the processor and this can happen within the same container or package)

a headset for supporting said wireless receiver, said storage device, said programmable switch and at least one headset speaker, said at least one headset speaker being coupled to said programmable switch to aurally reproduce said one of said plurality of audio signals selected for output. (paragraphs 0013, 0015, 0019 and Figure 2 – the headset includes an radio transceiver, microprocessor, speaker, etc.)

Regarding claim 30, Anvekar meets the limitation, "A programmable audio output device as in claim 27, wherein said designated triggering event is receipt of a mobile telephone transmission. (paragraph 0019 - upon receiving the incoming cell phone call, the headset sends a stop transmission message to the music player and send a start communication message to the cell phone to establish the headset to cell link)

Regarding claim 33, Anvekar discloses a method and apparatus for selecting source device and content delivery via wireless connections and thus provides a method of switching between wireless audio sources (paragraph 0014). Anvekar can be said to provide a system of electronic devices. Anvekar meets the following limitations:

a plurality of wireless audio source devices; (Figure 1 and paragraph 0014) and

at least one programmable audio output device, comprising: (paragraph (paragraphs 0013, 0015, 0019 and Figure 2 – the headset includes an radio transceiver, microprocessor, speaker, etc.)

a wireless receiver which receives a plurality of audio signals transmitted from respective wireless audio source devices; (Figure 2 and paragraph 0016 – the radio transceiver 270)

a storage device that stores at least one selection instruction which includes a designated triggering event for triggering said selection; (paragraphs 0019, 0022 and 0026 – the microprocessor 240 may be programmed and therefore inherently contains storage or memory. Also the voice command or the selection of the default device chosen at startup is a designated triggering event.)

a programmable switch coupled to said storage device and said wireless receiver that selects one of said plurality of audio signals for output according to said at least one stored selection instruction and said designated triggering event; (paragraphs 0019 and 0022 – the microprocessor 240 functions as a switching module and is known to inherently include at least some random access memory. In this device, the microprocessor 240 may be programmed to select a specific device as a power up default device, further, the storage is inherently coupled to the processor and this can happen within the same container or package)

an audio signal reproducing device coupled to said programmable switch that aurally reproduces said one of said plurality of audio signals selected

for output (paragraphs 0013, 0015, 0019 and Figure 2 – the speaker is a part of the headset and is coupled to the programmable switch through the audio electronics)

Regarding claim 34, Anvekar meets the limitation, "A system as in claim 33, wherein said programmable audio output device is programmed using one of said plurality of wireless audio source devices" (paragraphs 0013 – the user interface may be within any device wearable by a human, meaning any of the wireless source devices).

Regarding claims 25, 28 and 35, Anvekar meets the limitation, "wherein said wireless audio source devices are in RF communication with said wireless receiver". (paragraph 0016 and Figures 1 and 2 - RF communication between the wireless source devices and the radio transceiver in the headset)

Regarding claims 26, 29 and 36, Anvekar meets the limitation, "wherein said wireless receiver and said wireless audio source devices are Bluetooth compliant". (paragraph 0014 – the wireless medium link may utilize Bluetooth)

Regarding claim 39, Anvekar discloses a method and apparatus for selecting source device and content delivery via wireless connections and thus provides a method of switching between wireless audio sources (paragraph 0014). Anvekar can be said to provide a method of switching among wireless audio sources, comprising:

receiving a plurality of input audio signals from the same network from

respective wireless audio sources at a wireless receiver; (paragraph 0014 – allows for utilization of compact disc players, cassette players, MP3 players, personal computer, pda's, etc. Also allows for connection of the various devices by using digital wireless standards such as Bluetooth which uses a piconet where the components are part of the same network) and

selecting one of said plurality of input audio signals for output from an audio signal-reproducing device coupled to said wireless receiver, said selecting being performed according to at least one stored selection instruction which specifies a designated triggering event for triggering said selection. (paragraph 0019 – the instruction may for a particular device to be the default startup device where upon the startup is the triggering event or a triggering invent may be an incoming phone call that causes the audio output of the headset to switch from the current source to the cell phone)

Regarding claim 40, Anvekar meets the limitation - The method as in claim 39 wherein the network comprises a piconet. (paragraph 0014 – allows for connection of the various devices by using digital wireless standards such as Bluetooth which uses a piconet where the components are part of the same network)

Regarding claim 41, Anvekar discloses a method and apparatus for selecting source device and content delivery via wireless connections and thus provides a method of switching between

wireless audio sources (paragraph 0014). Anvekar can be said to provide a method of switching among wireless audio

sources, comprising:

receiving a plurality of Bluetooth compliant transmissions, each including a respective input audio signal from the same network, from respective electronic devices; (paragraph 0014 – allows for utilization of compact disc players, cassette players, MP3 players, personal computer, pda's, etc. Also allows for connection of the various devices by using digital wireless standards such as Bluetooth which uses a piconet where the components are part of the same network) and

selecting at least one of said received audio signals for output to a headset in accordance with at least one stored selection instruction, said selection instruction specifying a designated triggering event for triggering said selection. (paragraph 0019 – the instruction may for a particular device to be the default startup device where upon the startup is the triggering event or a triggering invent may be an incoming phone call that causes the audio output of the headset to switch from the current source to the cell phone)

Regarding claim 42, Anvekar meets the limitation - The method as in claim 41 wherein the network comprises a piconet. (paragraph 0014 – allows for connection of the various devices by using digital wireless standards such as Bluetooth which uses a piconet where the components are part of the same network)

Regarding claim 43, Anvekar discloses a method and apparatus for selecting source device and content delivery via wireless connections and thus provides a method of switching between wireless audio sources (paragraph 0014). Anvekar can be said to provide a device for switching among wireless audio sources comprising:

a wireless receiver which receives a plurality of audio signals from the same network transmitted from respective wireless audio sources; (paragraph 0014 – allows for utilization of compact disc players, cassette players, MP3 players, personal computer, pda's, etc. Also allows for connection of the various devices by using digital wireless standards such as Bluetooth which uses a piconet where the components are part of the same network)

a storage device that stores at least one selection instruction which specifies a designated triggering event for triggering said selection; (paragraphs 0019, 0022 and 0026 – the microprocessor 240 may be programmed and therefore inherently contains storage or memory. Also the voice command or the selection of the default device chosen at startup is a designated triggering event.)

a programmable switch coupled to said storage device and said wireless receiver that selects one of said plurality of audio signals for output according to said at least one stored selection instruction and said designated triggering event; (paragraphs 0019 and 0022 – the microprocessor 240 functions as a switching module and is known to inherently include at least some random access memory. In this device, the microprocessor 240 may be programmed to

select a specific device as a power up default device, further, the storage is inherently coupled to the processor and this can happen within the same container or package) and

an audio signal-reproducing device coupled to said programmable switch that aurally reproduces said one of said plurality of audio signals selected for output. (paragraphs 0013, 0015, 0019 and Figure 2 – the speaker is a part of the headset and is coupled to the programmable switch through the audio electronics)

Regarding claim 44, Anvekar meets the limitation - The method as in claim 43 wherein the network comprises a piconet. (paragraph 0014 – allows for connection of the various devices by using digital wireless standards such as Bluetooth which uses a piconet where the components are part of the same network)

Regarding claim 45, Anvekar discloses a method and apparatus for selecting source device and content delivery via wireless connections and thus provides a method of switching between wireless audio sources (paragraph 0014). Anvekar can be said to provide a programmable audio output device comprising:

a wireless receiver which receives a plurality of audio signals from the same network transmitted from respective wireless audio sources; (paragraph 0014 – allows for utilization of compact disc players, cassette players, MP3 players, personal computer, pda's, etc. Also allows for connection of the various

devices by using digital wireless standards such as Bluetooth which uses a piconet where the components are part of the same network)

a storage device that stores at least one selection instruction which specifies a designated triggering event for triggering said selection; (paragraphs 0019, 0022 and 0026 – the microprocessor 240 may be programmed and therefore inherently contains storage or memory. Also the voice command or the selection of the default device chosen at startup is a designated triggering event.)

a programmable switch coupled to said storage device and said wireless receiver that selects one of said plurality of audio signals for output according to said at least one stored selection instruction and said designated triggering event; (paragraphs 0019 and 0022 – the microprocessor 240 functions as a switching module and is known to inherently include at least some random access memory. In this device, the microprocessor 240 may be programmed to select a specific device as a power up default device, further, the storage is inherently coupled to the processor and this can happen within the same container or package) and

a headset for supporting said wireless receiver, said storage device, said programmable switch and at least one headset speaker, said at least one headset speaker being coupled to said programmable switch to aurally reproduce said one of said plurality of audio signals selected for output. (paragraphs 0019 and 0022 – the microprocessor 240 functions as a switching module and is known to inherently include at least some random access memory. In this device, the

microprocessor 240 may be programmed to select a specific device as a power up default device, further, the storage is inherently coupled to the processor and this can happen within the same container or package)

Regarding claim 46, Anvekar meets the limitation - The method as in claim 45 wherein the network comprises a piconet. (paragraph 0014 – allows for connection of the various devices by using digital wireless standards such as Bluetooth which uses a piconet where the components are part of the same network)

Regarding claim 47, Anvekar discloses a method and apparatus for selecting source device and content delivery via wireless connections and thus provides a method of switching between wireless audio sources (paragraph 0014). Anvekar can be said to provide a system of electronic devices, comprising:

a plurality of wireless audio source devices; (paragraphs 0014 - allows for utilization of compact disc players, cassette players, MP3 players, personal computer, pda's, etc.) and

at least one programmable audio output device, comprising:

a wireless receiver which receives a plurality of audio signals from the same network transmitted from respective wireless audio source devices; (paragraph 0014 – allows for utilization of compact disc players, cassette players, MP3 players, personal computer, pda's, etc. Also allows for connection of the various devices by using digital wireless standards such as

Bluetooth which uses a piconet where the components are part of the same network)

a storage device that stores at least one selection instruction which specifies a designated triggering event for triggering said selection; (paragraphs 0019, 0022 and 0026 – the microprocessor 240 may be programmed and therefore inherently contains storage or memory. Also the voice command or the selection of the default device chosen at startup is a designated triggering event.)

a programmable switch coupled to said storage device and said wireless receiver that selects one of said plurality of audio signals for output according to said at least one stored selection instruction and said designated triggering event; (paragraphs 0019 and 0022 – the microprocessor 240 functions as a switching module and is known to inherently include at least some random access memory. In this device, the microprocessor 240 may be programmed to select a specific device as a power up default device, further, the storage is inherently coupled to the processor and this can happen within the same container or package) and

an audio signal-reproducing device coupled to said programmable switch that aurally reproduces said one of said plurality of audio signals selected for output. (paragraphs 0013, 0015, 0019 and Figure 2 – the speaker is a part of the headset and is coupled to the programmable switch through the audio electronics)

Regarding claim 48, Anvekar meets the limitation - The method as in claim 47 wherein the network comprises a piconet. (paragraph 0014 – allows for connection of the various devices by using digital wireless standards such as Bluetooth which uses a piconet where the components are part of the same network)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 5, 16, 31, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anvekar et al.

Regarding claims 5, 16, and 32, Anvekar does not discuss utilizing a timing event as a trigger.

However, the examiner takes Official Notice that it is well known to utilize a timing event as a trigger and that it would have been obvious to modify Anvekar to allow a timing event to affect the switching process in order to serve as an alarm situation.

Regarding claim 31, Anvekar does not discuss utilizing the receipt of a message via an electronic messaging service.

However the examiner takes Official Notice that it is well known to receive an electronic message on mobile telephone device and that it would have been obvious to modify Anvekar to include such as a designated triggering event since receiving an electronic message on a mobile telephone device requires utilization of circuitry within the mobile telephone to receive the message.

Allowable Subject Matter

Claims 2-4, 7-11, 13-15, 17, 19-23, 37, 38 and 49, and 50 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

Regarding claim 37 and 49, methods where the receipt of an incoming information update are used to trigger a switching mechanism between the outputs of audio sources was neither found, suggested, nor made evident by the prior art.

Regarding claim 38 and 50, methods where the receipt of an advertising message from a merchant are utilized to trigger a switching mechanism between audio sources was neither found, suggested, nor made evident by the prior art.

Claims 6 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

Regarding claim 6, methods where the receipt of an incoming information update are used to trigger a switching mechanism between the outputs of audio sources was neither found, suggested, nor made evident by the prior art.

Regarding claim 18, methods where the receipt of an advertising message from a merchant are utilized to trigger a switching mechanism between audio sources was neither found, suggested, nor made evident by the prior art.

Conclusion

Any inquiry concerning this communication from the examiner should be addressed to Alan Gantt at telephone number (571) 272-7878. The examiner can normally be reached between 9:30 AM and 6 PM within the Eastern Time Zone. The group FAX number is (571) 273-8300.

Any inquiry of a general nature or relating to this application should be directed to Supervisory Patent Examiner Nay Maung at telephone number (571) 272-7882.

Alan T. Gantt

Alan T. Gantt

October 25, 2005

NAY MAUNG
SUPERVISORY PATENT EXAMINER